

## REMARKS

The Office Action mailed June 27, 2002 (the "Office Action"), acknowledged the applicants' timely traversal of the restriction (election) requirement and the applicants' election of Group I, claims 1-14 in Paper No. 8. The Office Action stated that claims 1-44 are pending and that claims 15-44 are withdrawn from consideration. In the Office Action, the Patent Office rejected claims 1-14 for various reasons. These reasons are traversed below.

### **Rejection of claims 1-14 under 35 U.S.C. § 112, second paragraph**

In the Office Action, the Patent Office rejected claims 1-14 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicants regard as their invention. This rejection is traversed for the reasons that follow in view of the amendments to the claims, which are made merely to expedite prosecution of the present application and are made without prejudice, disclaimer, or presumption.

The invention as presently claimed now refers to the amyloid  $\beta$ 1-42 protein, thus any argument in support of the present rejection under 35 U.S.C. § 112, second paragraph, has been rendered moot.

In view of the foregoing, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-14 under 35 U.S.C. § 112, second paragraph.

### **Rejection of claims 1-14 under 35 U.S.C. § 112, first paragraph**

In the Office Action, the Patent Office rejected claims 1-14 under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for amyloid  $\beta$  (1-42), allegedly does not reasonably provide enablement for any amyloid  $\beta$  protein to form a non-fibrillar product. This rejection is traversed for the reasons that follow in view of the amendments to the claims, which are made merely to expedite prosecution of the present application and are made without

prejudice, disclaimer, or presumption.

The invention as presently claimed now refers to the amyloid  $\beta$ 1-42 protein, thus any argument in support of the present rejection under 35 U.S.C. § 112, first paragraph, has been rendered moot.

In view of the foregoing, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-14 under 35 U.S.C. § 112, first paragraph.

#### **Rejection of claims 1, 2, 4, 6 and 7-14 under 35 U.S.C. § 102(b)**

In the Office Action, the Patent Office rejected claims 1, 2, 4, 6, and 7-14 under 35 U.S.C. § 102(b) as allegedly being anticipated by Levine *et al.* This rejection is traversed for the reasons that follow in view of the amendments to the claims, which are made merely to expedite prosecution of the present application and are made without prejudice, disclaimer, or presumption.

The invention as presently claimed is readily distinguishable from Levine *et al.*, thus any argument in support of the present rejection under 35 U.S.C. § 102(b), has been rendered moot.

In view of the foregoing, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 2, 4, 6 and 7-14 under 35 U.S.C. § 102(b).

#### **Rejection of claims 1, 2, 7, 11, 13, and 14 under 35 U.S.C. § 102(b)**

In the Office Action, the Patent Office rejected claims 1, 2, 7, 11, 13, and 14 under 35 U.S.C. § 102(b) as allegedly being anticipated by Roher *et al.* This rejection is traversed for the reasons that follow in view of the amendments to the claims, which are made merely to expedite prosecution of the present application and are made without prejudice, disclaimer, or presumption.

The invention as presently claimed is readily distinguishable from Roher *et al.*, thus any argument in support of the present rejection under 35 U.S.C. § 102(b), has been rendered moot.

In view of the foregoing, the applicants respectfully request reconsideration and

withdrawal of the rejection of claims 1, 2, 7, 11, 13, and 14 under 35 U.S.C. § 102(b).

**Rejection of claims 1-14 under 35 U.S.C. § 102(b)**

In the Office Action, the Patent Office rejected claims 1, 2, 7, 11, 13, and 14 under 35 U.S.C. § 102(b) as allegedly being anticipated by Kuo *et al.* This rejection is traversed for the reasons that follow in view of the amendments to the claims, which are made merely to expedite prosecution of the present application and are made without prejudice, disclaimer, or presumption.

The invention as presently claimed is readily distinguishable from Kuo *et al.*, thus any argument in support of the present rejection under 35 U.S.C. § 102(b), has been rendered moot.

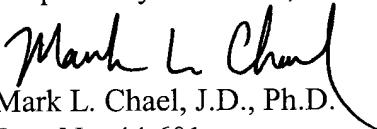
In view of the foregoing, the applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-14 under 35 U.S.C. § 102(b).

## CONCLUSION

The applicants respectfully request entry of the amendments and corrected drawings, consideration of the remarks, as well as reconsideration and withdrawal of the pending claim rejections. A Petition for a Three Month Extension of Time and the requisite fee accompanies this response. The Patent Office is invited to contact the undersigned at (312) 913-2117, if the Patent Office believes that such would materially advance prosecution of the present application. The Patent Office is authorized to credit any overpayment of fees or debit any underpayment of fees occasioned by this response to Deposit Account No. 13-2490. The applicants believe that the present application is in condition for allowance; prompt issuance of a Notice of Allowance is respectfully requested.

Date: December 24, 2002

Respectfully submitted,

  
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## Appendix

(Marked-up Copy of Amended Portions of the Application)

In the specification:

*Please amend the specification as follows, without disclaimer of any subject matter, prejudice to future prosecution, or presumption that the actions are taken for any reason related to patentability.*

In the claims:

*Please amend the claims as follows, without disclaimer of any subject matter, prejudice to future prosecution, or presumption that the actions are taken for any reason related to patentability.*

1. (Amended) An isolated, soluble, non-fibrillar amyloid  $\beta$  oligomeric structure comprising from about 13 [3] to about 24 amyloid  $\beta$ <sub>1-42</sub> proteins [that does not contain an exogenous added crosslinking agent and which exhibits neurotoxic activity].

2. (Amended) An isolated, oligomeric structure according to claim 1 wherein said oligomeric structure comprises [trimer, tetramer, pentamer, hexamer, heptamer, octamer, 12-mer,] 16-mer, 20-mer, or 24-mer aggregates of amyloid  $\beta$  proteins.